

PROSKAUER ROSE LLP
Counsel for the Debtor
and Debtor-in-Possession
1585 Broadway
New York, New York 10036
(212) 969-3000
Alan B. Hyman (AH-6655)
Jeffrey W. Levitan (JL-6155)

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

FRANK'S NURSERY & CRAFTS, INC.,

Debtor.

(Chapter 11)

Case No. 04-15826 (PCB)

**STIPULATION AND AGREED ORDER RESOLVING CLAIM
ASSERTED BY 1081 EJT, LLC AGAINST THE DEBTOR'S ESTATE**

WHEREAS, on September 8, 2004 (the "Petition Date"), Frank's Nursery & Crafts, Inc., debtor and debtor-in-possession (the "Debtor") filed with this Court a voluntary petition for relief under Chapter 11, Title 11, U.S.C. §§ 101 et seq. (the "Bankruptcy Code"); and

WHEREAS, pursuant to Sections 1107 and 1108 of the Bankruptcy Code, the Debtor is continuing to manage its affairs as a debtor-in-possession; and

WHEREAS, on or about September 15, 2004, the Office of the United States Trustee appointed the official committee of unsecured creditors in this case (the "Creditors' Committee"); and

WHEREAS, prior to the Petition Date, the Debtor and 1081 EJT, LLC (“1081 EJT”) were parties to a lease for nonresidential real property located in Huntington, New York (the “Lease”); and

WHEREAS, pursuant to the Lease, the Debtor provided 1081 EJT with a security deposit in the amount of \$50,000 (the “Security Deposit”); and

WHEREAS, the Lease was rejected by the Debtor in accordance with procedures approved by the Bankruptcy Court; and

WHEREAS, 1081 EJT filed a claim against the Debtor’s estate, identified as Claim No. 4570 (the “1081 EJT Claim”) on the official register of claims maintained in this case, asserting (a) an administrative expense claim in the amount of \$20,238.41 on account of real property taxes for the period from December 1, 2004 through May 31, 2005 and (b) a non-priority general unsecured claim in the amount of \$340,476.82 on account of lease rejection damages (the “Pre-Petition Claim”); and

WHEREAS, following negotiations, the parties have entered into this Stipulation to, among other things, resolve the 1081 EJT Claim as set forth herein.

NOW, THEREFORE, the Debtor and 1081 EJT hereby stipulate and agree as follows:

A. 1081 EJT shall apply the Security Deposit to reduce the amount of the Pre-Petition Claim.

B. After giving effect to paragraph A above, Claim No. 4570 shall be, and hereby is allowed as (i) an administrative expense claim in the amount of \$3,373.07 and (ii) a non-priority general unsecured claim in the amount of \$290,476.82.

C. Each party represents and warrants to the other that its execution, delivery and performance of this Stipulation are within the power and authority of such party and have been duly authorized by such party, except that, with respect to the Debtor, Bankruptcy Court approval is required.

D. With the exception of Claim No. 4570, 1081 EJT hereby waives, relinquishes and discharges any claim that it ever had or now has against the Debtor, its shareholders, members, officers, directors, employees or agents and the assets or properties of the Debtor's estate arising under or in connection with the Agreement or otherwise.

[Signature page follows]

STIPULATED AND AGREED:

/s/ Jeffrey W. Levitan
Counsel to the Debtor
and Debtor-in-Possession

PROSKAUER ROSE LLP
Alan B. Hyman (AH 6655)
Jeffrey W. Levitan (JL 6155)
1585 Broadway
New York, New York 10036
(212) 969-3000

/s/ Kenneth P. Silverman
Counsel to 1081 EJT, LLC

**SILVERMAN, PERLSTEIN
& ACAMPORA LLP**
Kenneth P. Silverman (KS-2826)
Sarah A. Joos (SJ-2882)
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300

SO ORDERED:

Dated: July 21, 2005
New York, New York

/s/ Prudence Carter Beatty
The Honorable Prudence Carter Beatty
United States Bankruptcy Judge